

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JAMES D. LINKOUS,

Plaintiff,

Case No. 1:10-cv-844

Bowman, M.J.

v.

DYCK-O'NEAL, INC.,

Defendant.

MEMORANDUM ORDER

This Fair Debt Collection Act case was filed by Plaintiff James D. Linkous, proceeding *pro se*,¹ in order to protest the attempts of the Defendant to collect on a mortgage note. (Doc. 1). On March 1, 2011, Defendant filed both an answer and a counterclaim, seeking collection on the same mortgage note. (Doc. 14). Pursuant to 28 U.S.C. §636(c), the parties have consented to disposition of this case by the undersigned magistrate judge. (Doc. 26).

Proceedings in this case were subsequently stayed after Plaintiff initiated bankruptcy proceedings. (Docs. 38, 39, 40). Although Plaintiff previously moved to dismiss this civil case, in light of the stay occasioned by his bankruptcy, the Court denied Plaintiff's motion to dismiss "without prejudice to renew upon the lifting of the bankruptcy stay and/or conclusion of bankruptcy proceedings." (Doc. 41).

On December 13, 2011, Plaintiff was granted a discharge by the United States

¹The Court takes judicial notice of the fact that the same *pro se* Plaintiff has litigated two other cases in this court involving allegedly improper debt collection, Case No. 1:10-cv-930, and Case No. 1:10-cv-384.

Bankruptcy Court for the Southern District of Ohio. (Case No. 1:11-bk-15732 (Doc. 12)). On February 1, 2012, this Court directed the parties to meet and confer to determine “whether any claim or counterclaim remains pending in this case.” (Doc. 45). Thereafter, the parties notified this Court that they each had agreed to dismiss their respective claims and/or counterclaims, and that no claims remain pending. (Docs. 46, 50, 51, 52). Apparently because an agreed stipulation of dismissal was not executed and filed by the deadline specified by the Court, Defendant also filed a formal motion to dismiss the complaint and counterclaim. (Doc. 51).

For the reasons stated in Defendant’s motion, and based upon the additional stipulation of dismissal signed by Plaintiff and filed on March 2, 2012, (Doc. 52), **IT IS ORDERED:**

1. Defendant’s motion to dismiss all claims and counterclaims pending in this case (Doc. 51) is **GRANTED**;
2. As all claims have been dismissed by agreement of the parties, this case shall be **CLOSED**.

s/ Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge